

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	CASE NO. 3:12-cr-58-LRH-WGC
)	
Plaintiff,)	
)	MINUTES OF THE COURT
vs.)	
)	DATED: Wednesday, April 4, 2013
F. HARVEY WHITTEMORE,)	
)	
Defendant.)	
_____)	

PRESENT: THE HONORABLE LARRY R. HICKS, U.S. DISTRICT JUDGE

Deputy Clerk: Dionna Negrete Reporter: Donna Davidson

U.S. Attorney: Steven W. Myhre and Eric Olshan

Counsel for Defendant: Dominic P. Gentile; Vincent Savarese; and Justin J. Bustos

MINUTES OF EVIDENTIARY HEARING RE MOTION TO SUPPRESS EVIDENCE [DOC #31]:

8:33 a.m. Court convenes.

The defendant is present with counsel. Counsel state their appearances for the record. Mr. Myhre represents to the Court that Mr. Robison is present at today's hearing representing Wingfield Nevada Group ("WNG"). The Court invites Mr. Robison to sit at counsel table.

Mr. Gentile moves for the exclusion of witnesses. Mr. Myhre joins in the motion. IT IS ORDERED that witnesses shall be excluded pursuant to the exclusionary rule.

James Joseph Pisanelli, Esq. is called on behalf of the Government, is sworn and testifies on direct examination by Mr. Myhre. Government's Exhibit 1 is marked and offered for the purposes of this hearing; no objection; Exhibit 1 is admitted. Government's Exhibit 2 is marked and offered for the purposes of this hearing; no objection; Exhibit 2 is admitted. Mr. Gentile requests a few minutes to review a 302 Report he was given just prior to Mr. Pisanelli taking the stand. The Court grants the request and remains on the bench. Cross examination by Mr. Gentile. Mr. Gentile moves for the admission of Government's Exhibit 3; no objection; Exhibit 3 is admitted. Defendant's Exhibits 500, 507, 509, 510, are marked and offered for the purposes of this hearing; no objection; Exhibits 500, 507, 509, 510, are admitted.

10:20 a.m. Court stands at recess.

10:32 a.m. Court reconvenes. The defendant and counsel are present.

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James Joseph Pisanelli, Esq. resumes the witness stand and continues testimony on cross examination by Mr. Gentile. Mr. Gentile presents three documents and requests they be marked next in order. Defendant's Exhibits 513, 514, and 515 are marked and offered for the purpose of this hearing; no objection; Exhibits 513, 514, and 515 are admitted. Mr. Robison addresses the Court and indicates on the record that on behalf of WNG he is authorizing Mr. Wright to disclose two of the emails which are clearly work product and privileged. They are waiving privilege with respect to the 81 boxes, under 502 with restricted limited waiver as indicated on the record. Re-direct examination is waived. Witness is excused.

Richard A. Wright, Esq. is called on behalf of the Government, is sworn and testifies on direct examination by Mr. Myhre. Government's Exhibit 5 is marked and offered for the purpose of this hearing; no objection; Exhibit 5 is admitted. Government's Exhibit 9 is marked. Government's Exhibit 6 is marked and offered for the purpose of his hearing; no objection; Exhibit 6 is admitted. Cross examination by Mr. Gentile.

12:00 p.m. Court stands at recess.

1:06 p.m. Court reconvenes. The defendant and counsel are present.

Richard A. Wright, Esq. resumes the witness stand and continues testimony on cross examination by Mr. Gentile. Mr. Gentile moves to mark and offer document "Raw Billings SEE/INV" as Defendant's next exhibit in order 516; no objection; Exhibit 516 is admitted. Re-direct examination is waived. Witness is excused.

Special Agent April French, FBI, is called on behalf of the Government, is sworn and testifies on direct by Mr. Olshan. Government's Exhibit 4 is marked and offered for the purpose of this hearing; no objection; Exhibit 4 is admitted. Government's Exhibit 7 is marked and offered; no objection; Exhibit 7 is admitted. Government's Exhibit 8 is marked and offered; no objection; Exhibit 8 is admitted. Cross examination by Mr. Savarese. Re-direct examination by Mr. Olshan. Mr. Olshan moves for the admission of Government's Exhibit 9; no objection; exhibit 9 is admitted.

The Government has no further witnesses.

The Defense has no witnesses.

Argument is presented by Mr. Savarese on behalf of the defendant.

Argument is presented by Mr. Olshan on behalf of the Government.

Mr. Savarese replies on behalf of the defendant.

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3:45 p.m. Court stands at recess.

3:55 p.m. Court reconvenes. The defendant and counsel are present. The Court compliments counsel for their exceptional briefing and presentation of this hearing today. IT IS ORDERED that Defendant's Motion to Suppress Evidence [31] is DENIED. The Court will issue a written order to follow. The Court extends his appreciation for the professionalism of counsel, the witnesses and the entire presentation today. Counsel and the Court further confer regarding jury questionnaire matters. IT IS ORDERED that any proposed questionnaires shall be submitted to the Court no later than Wednesday, 4/10/13. The Court and counsel further confer regarding jury trial scheduling.

4:09 p.m. Court adjourns.

LANCE S. WILSON, CLERK

By: D. NEGRETE
Deputy Clerk